

2002 NOV 25 P 1: 41

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)

Mattel, Inc.)

Fermin Cuza)

Ines Cuza)

Alan Schwartz)

AMS Consulting Services, LLC)

Kathleen Wilcox¹)

MUR 5187

GENERAL COUNSEL'S REPORT #3

I. ACTIONS RECOMMENDED

Accept the attached Conciliation Agreements with Mattel, Inc., Fermin Cuza and Alan Schwartz and AMS Consulting Services, LLC (hereinafter "AMS"); take no further action as to Ines Cuza and Kathleen Wilcox; take no action against various existing respondents and additional straw donors identified in conciliation agreements; and close the file as to all respondents.

II. BACKGROUND

On March 7, 2002, following the receipt of a combined complaint and sua sponte submission by Mattel, Inc., the Commission found reason to believe that former Mattel Executive Vice President Fermin Cuza knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f and that former Mattel consultant Alan Schwartz and AMS knowingly and willfully violated 2 U.S.C. § 441f. The Commission also found reason to believe that Mattel, Inc. violated 2 U.S.C. §§ 441b(a) and 441f, but did not find that its violations were knowing and willful.

¹ At the time the reason to believe finding was made, Ms. Wilcox was known as Kathleen Schwartz. An affidavit received from Ms. Wilcox indicates that her name has changed.

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1 Finally, the Commission found reason to believe that Ines Cuza and Kathleen Wilcox (formerly
2 Schwartz) violated 2 U.S.C. § 441f.

3 On August 7, 2002, the Commission determined to enter into negotiations directed
4 toward reaching conciliation agreements with Respondents Mattel, Inc., Fermin Cuza and Alan
5 Schwartz and his company AMS prior to a finding of probable cause to believe. At that time,
6 conciliation agreements incorporating the then-known violations and corresponding civil
7 penalties were forwarded to these Respondents.

8 Subsequent to the Commission's approval of pre-probable cause conciliation, this Office
9 uncovered additional illegal contributions which were reimbursed using funds that Fermin Cuza
10 caused to be paid by Mattel to Alan Schwartz and AMS. See General Counsel's Memorandum
11 dated October 17, 2002. Instead of the \$71,464 in contributions made to federal political
12 committees by Fermin Cuza, Alan Schwartz, and their family members originally known to this
13 Office, it is now undisputed that between 1996 and 2000, \$120,714 in reimbursed contributions
14 were made to federal political committees by Mr. Fermin Cuza, Mrs. Ines Cuza, the Cuzas'
15 daughter Tammy Orozco, the Cuzas' son-in-law Frank Orozco, Jacqueline Balestra, John
16 Balestra, Sheryl Green, Gloria Zwinak, Katherine Walker, Frank Gomez, Ella Schwartz,
17 Mr. Schwartz, and Kathleen Wilcox, formerly known as Kathleen Schwartz.²

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² In the October 17, 2002 General Counsel's Memorandum, this Office stated that the total of all contributions made during the applicable time period of the Matter was \$138,464.

Since that time, this Office has received additional information regarding the contributions at issue. First, some of the contributions listed in proffers submitted by counsel for the Respondents were double-counted, resulting in inflated contribution totals. Second, some of the contributions listed were not reimbursed at all, but were legally made by various individuals of their own accord. Third, some of the contributions were reimbursed by Mr. Schwartz, but were done so not for the benefit of Mattel.

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1 In addition to the contributions reimbursed by Mattel listed above, Mr. Schwartz
2 reimbursed Anthony Willoughby and Carol Aminoff for at least \$3,500 in political contributions
3 Mr. Willoughby and Ms. Aminoff made to federal committees in 2000.

4 **III. CONCILIATION AGREEMENTS**

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IV. OTHER RESPONDENTS AND NEWLY IDENTIFIED CONDUITS

This Office recommends that the Commission take no action or no further action against any other Respondents or individuals, as appropriate. The Commission previously determined to take no action at this time with respect to Laxmi Group, Inc. and Mr. Shankar Ram; Friends of Jane Harman and Michael Gordon, Treasurer; and Dilip S. Keswani.⁶ The Commission also found reason to believe against the spouses of Messrs. Cuza and Schwartz, Ines Cuza and Kathleen Wilcox, for their political contributions. In addition to conduits of which this Office was previously aware, Mattel reimbursed the following individuals for federal political contributions: Jacqueline Balestra, John Balestra, Sheryl Green, Gloria Zwinak, Katherine Walker, Frank Gomez, Frank Orozco, Tammy Orozco, and Ella Schwartz. In addition to the

⁶ The Commission previously determined to take no action at this time against Friends of Jane Harman and Jacki Bacharach, as Treasurer. An amended Statement of Organization naming Michael Gordon as Treasurer was filed with the Commission on April 23, 2001. In accordance with standard practice, this Office makes its recommendations to the Commission regarding the current Treasurer.

1 contributions reimbursed by Mattel listed above, Mr. Schwartz reimbursed Anthony Willoughby
2 and Carol Aminoff with his own money for at least \$3,500 in political contributions
3 Mr. Willoughby and Ms. Aminoff made to federal committees in 2000.

4 All of these Respondents, conduits and related parties appear to have been minor players
5 in the scheme perpetrated by Messrs. Cuza and Schwartz. Because of the relatively limited
6 nature of their involvement and the fact that Messrs. Cuza and Schwartz, as well as Mattel, are
7 taking full responsibility for the actions of the conduits, this Office recommends that the
8 Commission take no further action against Ines Cuza and Kathleen Wilcox. Further, this Office
9 recommends that the Commission take no action against Jacqueline Balestra, John Balestra,
10 Sheryl Green, Gloria Zwinak, Katherine Walker, Frank Gomez, Frank Orozco, Tammy Orozco,
11 Ella Schwartz, Anthony Willoughby and Carol Aminoff but send each of these individuals a
12 letter of admonishment. In addition, this Office recommends that the Commission take no action
13 against Laxmi Group, Inc. and Mr. Shankar Ram; Friends of Jane Harman and Michael Gordon,
14 Treasurer; and Dilip S. Keswani. Finally, this Office recommends that the Commission close the
15 file as to all Respondents.

16 V. PRESS RELEASE

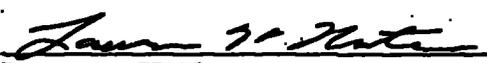
17 Given the significance of the violations and the size of the combined penalties in this
18 Matter, this Office feels that wider dissemination of this information would help educate the
19 public and deter others from committing similar violations. It would also indicate the
20 Commission's willingness to take into consideration their voluntary disclosure when determining
21 applicable violations and corresponding civil penalties. Because of the violations involved and
22 the fact that this is one of the larger cumulative penalties in the history of the Commission, this
23 Office has attached a proposed press release for the Commission's approval. Attachment 4.

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1 **VI. RECOMMENDATIONS**

- 2 1. Approve the attached conciliation agreements for a) Mattel, Inc., b) Fermin Cuza, and
3 c) Alan Schwartz and AMS Consulting Services.
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5 2. Take no further action against Ines Cuza and Kathleen Wilcox, formerly Kathleen
6 Schwartz.
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8 3. Take no action against Jacqueline Balestra, John Balestra, Sheryl Green, Gloria Zwinak,
9 Katherine Walker, Frank Gomez, Frank Orozco, Tammy Orozco, Anthony Willoughby,
10 Carol Aminoff and Ella Schwartz and send letters of admonishment.
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12 4. Take no action against Laxmi Group, Inc. and Mr. Shankar Ram; Friends of Jane Harman
13 and Michael Gordon, Treasurer; and Dilip S. Keswani.
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15 5. Approve the Proposed Press Release.
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17 6. Approve the appropriate letters.
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19 7. Close the file.

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23 11/23/02
24 Date


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